

Amendments to House Bill No. 86  
1st Reading Copy

Requested by Representative Geraldine Custer

For the House State Administration Committee

Prepared by Sheri Scurr  
February 23, 2015 (7:33am)

1. Title, page 1, line 4 through line 5.

**Strike:** "AVAILABLE" on line 4 through "ELECTIONS" on line 5

**Insert:** "MAILED"

**Strike:** "AND"

2. Title, page 1, line 5.

**Strike:** "SECTION"

**Insert:** "SECTIONS 13-10-211,"

**Following:** "13-13-205,"

**Insert:** "13-13-213, 13-13-214, 13-13-222, 13-21-104, AND 13-21-206,"

**Following:** "MCA"

**Insert:** "; AND PROVIDING A DELAYED EFFECTIVE DATE"

3. Page 1.

**Following:** line 8

**Insert:** "Section 1. Section 13-10-211, MCA, is amended to read:  
"13-10-211. Declaration of intent for write-in candidates.

(1) Except as provided in subsection (8), a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. Except for a candidate who files under 13-38-201, a candidate may not file for more than one public office. The declaration of intent must be filed with the secretary of state or election administrator, depending on where a declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district office. When a county election administrator is conducting the election for a school district, the school district clerk or school district office that receives the declaration of intent shall notify the county election administrator of the filing. Except as provided in subsections (2) and (3), the declaration must be filed no later than 5 p.m. on the 10th day before the date established under 13-13-205(1)(a) on which a ballot must be available for absentee voting ~~for the election~~ and must contain:

(a) (i) the candidate's first and last names;

(ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the candidate's last name;

(iii) the candidate's nickname, if any, used instead of a

first name, and the candidate's last name; and

(iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name;

(b) the candidate's mailing address;

(c) a statement declaring the candidate's intention to be a write-in candidate;

(d) the title of the office sought;

(e) the date of the election;

(f) the date of the declaration; and

(g) the candidate's signature.

(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office that the write-in candidate is seeking dies or is charged with a felony offense and if the election has not been canceled as provided by law.

(3) A person seeking to become a write-in candidate in a mail ballot election or for a trustee position in a school board election shall file a declaration of intent no later than 5 p.m. on the 26th day before the election.

(4) The secretary of state shall notify each election administrator of the names of write-in candidates who have filed a declaration of intent with the secretary of state. Each election administrator and school district clerk shall notify the election judges in the county or district of the names of write-in candidates who have filed a declaration of intent.

(5) A properly completed and signed declaration of intent may be provided to the election administrator or secretary of state:

(a) by facsimile transmission;

(b) in person;

(c) by mail; or

(d) by electronic mail.

(6) A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the secretary of state or the election administrator.

(7) A write-in candidate who files a declaration of intent for a general election may not file with a partisan, nonpartisan, or independent designation.

(8) Except as provided in 13-38-201(5), the requirements in subsection (1) do not apply if:

(a) an election is held;

(b) a person's name is written in on the ballot;

(c) the person is qualified for and seeks election to the office for which the person's name was written in; and

(d) no other candidate has filed a declaration or petition for nomination or a declaration of intent."

{ Internal References to 13-10-211:

x13-10-201      x13-10-204      x13-15-206      x13-15-206

x13-38-201      x20-3-313 }"

**Renumber:** subsequent section

4. Page 1, line 10.

**Following:** "When"

**Insert:** "absentee"

**Following:** "available"

**Insert:** "and mailed"

**Strike:** "subsection (2)"

**Insert:** "subsections (2) and (3)"

5. Page 1, line 12.

**Strike:** "25"

**Insert:** "30"

6. Page 1, line 15.

**Strike:** "25"

**Insert:** "30"

7. Page 1.

**Following:** line 19

**Insert:** "(3) Ballots to be mailed to absentee electors must be mailed at least:

(a) 25 days prior to election day for elections covered under subsections (1)(a) and (1)(c); and

(b) 20 days prior to election day for elections covered under subsection (1)(b)."

**Insert:** "Section 3. Section 13-13-213, MCA, is amended to read:

**"13-13-213. Transmission of application to election administrator -- delivery of ballot.** (1) All absentee ballot application forms must be addressed to the appropriate county election office.

(2) Except as provided in subsection (4), the elector may mail the signed application directly to the election administrator or deliver the application in person to the election administrator. An agent designated pursuant to 13-1-116 or a third party may collect the elector's application and forward it to the election administrator.

(3) (a) The election administrator shall compare the signature on the application with the applicant's signature on the registration card or the agent's signature on the agent designation form. If convinced that the individual making the application is the same as the one whose name appears on the registration card or the agent designation form, the election administrator shall deliver the ballot to the elector in person or as otherwise provided in 13-13-214, subject to 13-13-205.

(b) If no signature is provided or the election administrator is not convinced that the individual signing the application is the same person whose name appears on the registration card or agent designation form, the election administrator shall notify the elector as provided in 13-13-245.

(4) In lieu of the requirement provided in subsection (2), an elector who requests an absentee ballot pursuant to 13-13-212(2) may return the application to the absentee election board or an authorized election official. Upon receipt of the application, the absentee election board or authorized election official shall examine the signatures on the application and a copy of the voting registration card or agent designation form to be provided by the election administrator. If the absentee election board or an authorized election official believes that the applicant is the same person as the one whose name appears on the registration card or agent designation form, the absentee election board or authorized election official shall provide a ballot to the elector when the ballot is available pursuant to 13-13-205(1)."

{Internal References to 13-13-213:

x13-1-116            x13-13-214            x13-13-245 }"

**Insert: "Section 4.** Section 13-13-214, MCA, is amended to read:

**"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector.** (1) (a) Except as provided in 13-13-213 and in subsection (1)(c) of this section, the election administrator shall mail, postage prepaid, to each legally registered elector and provisionally registered elector from whom the election administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official ballots are necessary in a manner that conforms to postal regulations to require the return rather than forwarding of ballots.

(b) The election administrator shall mail the ballots in a manner that conforms to the deadlines established for ~~ballot availability in mailing ballots under~~ 13-13-205(3).

(c) The election administrator may deliver a ballot in person to an individual other than the elector if:

(i) the elector has designated the individual, either by a signed letter or by making the designation on the application form in a manner prescribed by the secretary of state or pursuant to 13-1-116;

(ii) the individual taking delivery of the ballot on behalf of the elector verifies, by signature, receipt of the ballot;

(iii) the election administrator believes that the individual receiving the ballot is the designated person; and

(iv) the designated person has not previously picked up ballots for four other electors.

(2) The election administrator shall enclose with the ballots:

(a) a secrecy envelope, free of any marks that would identify the voter; and

(b) a signature envelope for the return of the ballots. The signature envelope must be self-addressed by the election administrator and an affirmation in the form prescribed by the secretary of state must be printed on the back of the signature envelope.

(3) The election administrator shall ensure that the ballots provided to an absentee elector are marked as provided in 13-13-116 and shall remove the stubs from the ballots, keeping the stubs in numerical order with the application for absentee ballots, if applicable, or in a precinct envelope or container for that purpose.

(4) If the ballots sent to the elector are for a primary election, the election administrator shall enclose an extra envelope marked "For Unvoted Party Ballot(s)". This envelope may not be numbered or marked in any way so that it can be identified as being used by any one elector.

(5) Instructions for voting must be enclosed with the ballots. Instructions for primary elections must include use of the envelope for unvoted ballots. The instructions must include information concerning the type or types of writing instruments that may be used to mark the absentee ballot. The instructions must include information regarding use of the secrecy envelope and use of the signature envelope. The election administrator shall include a voter information pamphlet with the instructions if:

(a) a statewide ballot issue appears on the ballot mailed to the elector; and

(b) the elector requests a voter information pamphlet."

{ Internal References to 13-13-214:

x13-13-213      x13-13-233      x13-19-205      x13-21-212 }"

**Insert: "Section 5.** Section 13-13-222, MCA, is amended to read:

**"13-13-222. Marking ballot before election day.** (1) As soon as the official ballots are available pursuant to 13-13-205(1), the election administrator shall permit an elector to apply for, receive, and mark an absentee ballot before election day by appearing in person at the office of the election administrator and marking the ballot in a voting station area designated by the election administrator.

(2) The provisions of this chapter apply to voting under this section.

(3) For the purposes of this section, an official ballot is voted when the ballot is received at the election administrator's office."

{ Internal References to 13-13-222:

x13-3-213      x13-13-211      x13-13-233 }"

**Insert: "Section 6.** Section 13-21-104, MCA, is amended to read:

**"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds.** (1) The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot

to be electronically transmitted to a United States elector as soon as the ballots are available pursuant to 13-13-205(2);

(c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close on election day;

(d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote; and

(e) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(e) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

(3) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter."

{Internal References to 13-21-104: None.}"

**Insert: "Section 7.** Section 13-21-206, MCA, is amended to read:

**"13-21-206. Counting of federal write-in absentee ballots.**

(1) A federal write-in absentee ballot received by an election administrator may be counted only if:

(a) the elector's voter registration and identification information is sufficient to determine that the elector is eligible to vote in the election;

(b) the ballot is not received before regular absentee ballots have been printed pursuant to 13-13-205(2);

(c) the election administrator has not received a regular absentee ballot from the elector by 8 p.m. on election day; and

(d) the ballot is sent by 8 p.m. on election day and is received by 3 p.m. on the Monday following the election.

(2) Federal write-in absentee ballots received before the close of the polls on election day may not be counted until the polls have closed."

{Internal References to 13-21-206:

x13-13-201      x13-15-201      x13-19-106      x13-19-306 }"

**Insert: "COORDINATION SECTION. Section 8. Coordination**

**instruction.** If both House Bill No. 84 and [this act] are passed and approved and if [this act] amends 13-13-205 to provide that ballots must be available for voting at least 30 days prior to the election and must be mailed to absentee voters at least 25 days prior to the election, then [section 3] in House Bill No. 84 must read as follows:

**"Section 3. Deadlines for absentee and mail ballots.** (1) Ballots for a polling place special purpose district election must be available for absentee voting at least 20 days before election day, as provided in 13-13-205(1)(b).

(2) Ballots for a special purpose district election conducted by mail must be mailed no sooner than the 20th day and

no later than the 15th day before election day, as provided in 13-19-207.""

**Insert:** "COORDINATION SECTION. Section 9. Coordination

**instruction.** If both House Bill No. 84 and [this act] are passed and approved and [this act] amends 13-13-205 to revert subsection (1) to current law and provide a new subsection (3) with a different deadline for mailing absentee ballots, then [section 8] in House Bill No. 84 must read as follows:

**"Section 8. Deadline for absentee and mail ballots. (1)** Ballots for a local government polling place election must be available for absentee voting at least 30 days before election day, as provided in 13-13-205(1)(a).

(2) Ballots for a local government election conducted by mail must be mailed no sooner than the 20th day and no later than the 15th day before election day, as provided in 13-19-207.""

**Insert:** "COORDINATION SECTION. Section 10. Coordination

**instruction.** If both House Bill No. 84 and [this act] are passed and approved, if both amend 13-13-205, and if [this act] amends 13-13-205 to revert subsection (1) to current law and provide a new subsection (3) with a different deadline for mailing absentee ballots, then the sections amending 13-13-205 are void and 13-13-205 must be amended as follows:

**"13-13-205. When ballots to be available and mailed for absentee voting.** (1) Except as provided in ~~subsection (2)~~ subsections (2) and (3), the election administrator shall ensure that ballots for an election not conducted by mail are available for absentee voting at least:

(a) 30 days prior to ~~an election for those elections held in compliance with 13-1-107(1) day for an election not covered under subsection (1)(b); and~~

(b) 20 days prior to ~~an election day for a special purpose district or school district election for those elections held in compliance with 13-1-104(2) and (3) and 13-1-107(2); and~~

~~(c) 30 days prior to an election held in conjunction with a federal general election in compliance with 13-1-104(1).~~

(2) A ballot requested pursuant to Title 13, chapter 21, must be sent to the elector as soon as the ballot is printed or at least 45 days in advance of an election held in conjunction with a federal primary election, federal general election, or federal special election.

(3) Ballots to be mailed to electors must be mailed at least:

(a) 25 days prior to election day for elections covered under subsection (1)(a); and

(b) 20 days prior to election day for elections covered under subsection (1)(b)."

{ Internal References to 13-13-205:

a13-10-211	a13-13-213	a13-13-213	a13-13-214
a13-13-222	a13-21-104	a13-21-206 }	""

Insert:    "NEW SECTION.   Section 11.   {standard} Effective date.  
[This act] is effective November 4, 2015."

- END -